

FIRST REGULAR SESSION

SENATE BILL NO. 297

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 3, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1545S.011

AN ACT

To repeal sections 414.530, 414.560, and 414.570, RSMo, and to enact in lieu thereof three new sections relating to the Missouri propane education and research council.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 414.530, 414.560, and 414.570, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 414.530,
3 414.560, and 414.570, to read as follows:

414.530. 1. The director shall conduct a referendum as soon as possible
2 among producers and Missouri retail marketers of propane to authorize the
3 creation of the "Missouri Propane Education and Research Council" and the
4 levying of an assessment on odorized propane. Upon approval of those persons
5 representing two-thirds of the total gallonage of odorized propane voted in the
6 retail marketer class and two-thirds of all propane voted in the producer class,
7 meaning propane sold or produced in the previous calendar year or other
8 representative period, the director shall issue an order establishing the council
9 and call for nominations to the council from qualified industry organizations. All
10 persons voting in the referendum shall certify to the director the number of
11 gallons represented by their vote.

12 2. [On the director's own initiative,] Upon petition of the council or of
13 producers and marketers representing thirty-five percent of the gallons in each
14 class, the director shall hold a referendum to determine whether the industry
15 favors termination or suspension of the order. The termination or suspension
16 shall not take effect unless it is approved by those persons representing more
17 than one-half of the total gallonage of odorized propane in the marketer class and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

18 one-half of all propane in the producer class.

19 3. The director may require such reports or documentation as is necessary
20 to document the referendum process [and the nomination process for members of
21 the council] and shall protect the confidentiality of all such documentation
22 provided by industry members. Information regarding propane produced or
23 marketed by persons voting shall be a closed record.

 414.560. 1. Upon issuance of an order by the director establishing the
2 Missouri propane education and research council, the director shall select all
3 members of the council from a list of nominees submitted by qualified industry
4 organizations. **Subsequent appointments shall be selected by the council**
5 **following a public nomination process.** Vacancies in unfinished terms of
6 council members may be filled by the council[, subject to approval of the director].

7 2. In making nominations and appointments to the council, the qualified
8 industry organizations [and the director] shall give due regard to selecting a
9 council that is representative of the industry, and the geographic regions of the
10 state.

11 3. The council shall consist of fifteen members, with nine members
12 representing retail marketers of propane; three members representing
13 wholesalers or resellers of propane; two members representing manufacturers and
14 distributors of gas use equipment, wholesalers or resellers, or transporters; and
15 one public member. Other than the public member, council members shall be
16 full-time employees or owners of businesses in the industry.

17 4. Council members shall receive no compensation for their services, but
18 shall be reimbursed for reasonable expenses incurred in the performance of their
19 duties.

20 5. Council members shall serve terms of three years; except that of the
21 initial members appointed, five shall be appointed for terms of one year, five shall
22 be appointed for terms of two years and five shall be appointed for terms of three
23 years. Members may be appointed to a maximum of two consecutive full
24 terms. Members filling unexpired terms will not have any partial term of service
25 count against the two-term limitation. Former members of the council may be
26 reappointed to the council if they have not been members for a period of one year.

27 6. The council shall select from among its members a chairman and other
28 officers as necessary, establish committees and subcommittees of the council, and
29 adopt rules and bylaws for the conduct of business. The council may establish
30 advisory committees of persons other than council members.

31 7. The council may employ a president to serve as chief executive officer
32 and such other employees as it deems necessary. The council may enter into
33 contracts with, use facilities and equipment of, or employ personnel of a qualified
34 industry organization in carrying out its responsibilities under sections 414.500
35 to 414.590. It shall determine the compensation and duties of each, and protect
36 the handling of council funds through fidelity bonds.

37 8. At **least thirty days prior to** the beginning of each fiscal period, the
38 council shall prepare and submit [to the director] **for public comment** a budget
39 plan including the probable costs of all programs, projects and contracts and a
40 recommended rate of assessment sufficient to cover such costs. [The director
41 shall approve or recommend changes to the budget after an opportunity for public
42 comment] **The council shall approve or modify the budget following the**
43 **public comment period.**

44 9. The council shall develop programs and projects and enter into
45 contracts or agreements for implementing the policy of sections 414.500 to
46 414.590, including programs of research, development, education, and marketing,
47 and for the payment of the costs thereof with funds collected pursuant to sections
48 414.500 to 414.590. The council shall coordinate its activities with industry trade
49 associations to provide efficient delivery of services and to avoid unnecessary
50 duplication of activities.

51 10. The council shall keep minutes, books, **and** records that clearly reflect
52 all of the acts and transactions of the council and regularly report such
53 information to the director[, along with such other information as the director
54 may require]. The books of the council shall be audited by a certified public
55 accountant at least once each fiscal year and at such other times as the council
56 may designate. Copies of such audit shall be provided to the director, all
57 members of the council, all qualified industry organizations, and to other
58 members of the industry upon request. [The director shall receive notice of
59 meetings and may require reports on the activities of the council, as well as
60 reports on compliance, violations and complaints regarding the implementation
61 of sections 414.500 to 414.590.]

62 11. From assessments collected, the council shall annually reimburse the
63 director for costs incurred in holding the referendum establishing the council[,
64 making appointments to the council,] and other expenses directly related to the
65 council.

414.570. 1. The council shall set the initial assessment at no greater than

2 one-tenth of one cent per gallon. Thereafter, annual assessments shall be
3 sufficient to cover the costs of the plans and programs developed by the council
4 and approved [by the director] **following public comment**. The assessment
5 shall not be greater than one-half cent per gallon of odorized propane. The
6 assessment may not be raised by more than one-tenth of one cent per gallon
7 annually.

8 2. The owner of propane immediately prior to odorization in this state or
9 the owner at the time of import into this state of odorized propane shall be
10 responsible for the payment of the assessment on the volume of propane at the
11 time of import or odorization, whichever is later. Assessments shall be remitted
12 to the council on a monthly basis by the twenty-fifth of the month following the
13 month of collection. Nonodorized propane shall not be subject to assessment until
14 odorized.

15 3. The [director] **council** may [by regulation, with the concurrence of the
16 council,] establish an alternative means [for the council] to collect the
17 assessment if another means is found to be more efficient and effective. The
18 [director] **council** may [by regulation] establish a late payment charge and rate
19 of interest **not to exceed the legal rate for judgments** to be imposed on any
20 person who fails to remit to the council any amount due under sections 414.500
21 to 414.590.

22 4. Pending disbursement pursuant to a program, plan or project, the
23 council may invest funds collected through assessments and any other funds
24 received by the council only in obligations of the United States or any agency
25 thereof, in general obligations of any state or any political subdivision thereof, in
26 any interest-bearing account or certificate of deposit of a bank that is a member
27 of the Federal Reserve System, or in obligations fully guaranteed as to principal
28 and interest by the United States.

29 [5. The National Propane Education and Research Council, in conjunction
30 with the United States Secretary of Energy may, by regulation, establish a
31 program coordinating the operation of its council with the council established in
32 section 414.530. This may include an assessment rebate, if adopted, of an amount
33 up to twenty-five percent of the National Propane Education and Research
34 Council assessment collected on Missouri distributed odorized propane as
35 presented and described in section nine of the federal Propane Education and
36 Research Act of 1992. Should the National Propane Education and Research
37 Council, as part of the federal Propane Education and Research Act of 1992,

38 establish such an assessment rebate on fees collected by such council, then all
39 funds from such federal assessment rebate shall be the property of the Missouri
40 council as established by section 414.530, and the use of such funds shall be
41 determined by the Missouri council for the purposes as intended and presented
42 in sections 414.500 to 414.590.]

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Unofficial

Bill

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